REMARKS

Initially, Applicant expresses appreciation to the Examiner for the courtesies extended during the recent in person interview. The amendments and remarks made by this paper are consistent with the proposals and amendments presented during the interview and which generally appeared to overcome all of the issues of record.

In the Non-Final Office Action, mailed December 31, 2007, all the pending claim claims 1-25 and 28-30 were rejected.[1] By this paper, claims 1, 25 & 30 have been amended and new claims 31-34 have been added, such that claims 1-25 and 28-34 remain pending, of which claims 1 and 25 are the only independent claims at issue. Support for the claim amendments and new claims is found in paragraph [0011] (numbered as originally filed), as well as the previously presented claims. This disclosure was reviewed during the in person interview.

As discussed during the interview, the present invention is generally directed to embodiments for placing targeted video segments based on remotely issued target instructions and locally stored state and user information. As recited in claim 1, for example, state and user behavior characteristics associated with a video receiver are monitored locally and stored only at the video receiver. These characteristics include data identifying that a user is not already subscribed to receive a particular channel. The receiver also receives multiple video segments from a stream, and further receives from the stream remotely issued executable instructions that can cause the receiver to select a particular video segment based on the locally stored characteristics. As further recited, the remotely issued executable instructions are further processed by using the locally stored characteristics to cause the video receiver to select the particular video segment, and based on the determination that the user is not subscribed to a particular channel. The selected video segment is then caused to be displayed.

---

[1] Claims 1-4, 12, 13, 15, 16, 18, 21-25 and 28-29 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Alexander (US Patent No.: 6,177,931, hereinafter "Alexander") in view of Eldering (US Patent Publication No.: 2002/0026638, hereinafter "Eldering"). Claims 6 and 7 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Alexander and Eldering in view of Knudson (US Patent Publication No.: 2005/0216936, hereinafter "Knudson"). Claims 8-11 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Alexander and Eldering in view of Ching (US Patent Publication No.: 2001/0003184, hereinafter "Ching"). Claim 17 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Alexander and Eldering in view of Thomas et al. (US Patent Publication No.: 2005/0251824, hereinafter "Thomas"). Claims 19 and 20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Alexander in view of Ohkura et al. (US Patent No.: 6,347,400, hereinafter "Ohkura")

Independent claim 25 recites a computer program product that has computer readable media with computer-executable instructions for performing a method generally corresponding to the method of claim 1.

In the last rejection, a new combination of art is used to reject the claims. This combination, includes Alexander, Eldering and Knudson. As discussed during the interview, however, none of this art, when considered alone or in combination fairly teaches or suggests the claimed invention.

While Alexander, the primary reference, does generally relate to embodiments for targeting advertisements in a customized EPG, Alexander clearly fails to anticipate or render obvious the claimed invention that includes selecting and inserting advertisements based at least in part on a determination that a user is not subscribed to a particular channel, as recited in the independent claims, and particularly when that is the sole consideration (claim 32). Alexander also fails to teach or suggest that the selection of the video segment is based on determining that the video segment has not already been displayed within a preceding period of time, as recited in dependent claim 30, particularly within certain hours of a preceding week (claim 33), or that the user has NOT previously navigated to a particular web site, as recited in claim 29, particularly when that web site advertizes content related to the video segment (claim 31).

The other cited art also fails to compensate for the inadequacies of Alexander in regard to the foregoing. Eldering was cited for purportedly teaching the limitation regarding the determination of which video segments have been displayed in a preceding period of time. However, as discussed during the interview, Eldering clearly fails to teach or suggest that a selection of an advertisement is based on a determination that a particular video segment has not been displayed within a particular predetermined period of time, as claimed. Instead, Eldering merely teaches that advertisements can be interleaved with other ads to ensure an ad is shown a certain number of times. But, the timing of previously displayed ads or their absence during particular times is not critical or determinative as to the selection of new displays.

Knudson, was cited for the proposition that a determination of the video segment can be based on what channels a viewer is subscribed to. Applicants respectfully disagree. Initially, it is noted that the Knudson merely discloses different types of advertisements that can be displayed in different portions of an EPG. While some advertisements can correspond to pay-per-view and subscription channels, there is nothing in Knudson that teaches or suggests that the

determination that a viewer is NOT subscribed to a particular channel is the determining factor for selecting an advertisement, as claimed, for example, in combination with the other recited claim elements. In this regard, it is noted that an opportunity to order products or services is not disclosed in Knudson as selectively being displayed only upon determining that a viewer is not already subscribed to a particular channel. Instead, it appears as though the advertisement (opportunity to order) will be displayed irrespective of whether the viewer is already subscribed. This is not unlike many existing advertisements that offer services and products, irrespective of whether a viewer has already purchased the services and products.

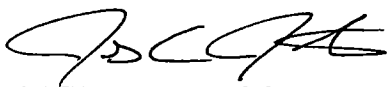
Finally, it is noted that Official Notice was used to reject claim 29 with specific regard to determining which web sites are accessed as the reason for selecting an advertisement. Applicant traverses the Examiner's Official Notice, however, as discussed during the interview. Initially, it will be noted that the Official Notice only addresses which sites have been visited (such as, for example, to develop a profile of viewer interests). Selecting an advertisement based on determining a particular site has NOT been visited, however, is quite different, as claimed. For example, monitoring which sites are visited merely and provides a way to track interests. Monitoring which sites are NOT visited, on the other hand, can provide an opportunity to ensure certain information is ultimately presented to the viewer (either through the web site or through the video segment, if the web site is not accessed).

Accordingly, for at least the foregoing reasons, as well as those discussed during the interview, Applicant respectfully submits that the pending claims are in condition for allowance.

In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney at 801-533-9800.

Dated this 19 day of March, 2008.

Respectfully submitted,



RICK D. NYDEGGER
Registration No. 28,651
JENS C. JENKINS
Registration No. 44,803
Attorneys for Applicant
Customer No. 47973